



Amended Petition requesting the same relief. On May 19, 2021, the Court entered an Order in which it served the Amended Petition on the Respondents and requested they file a response to the Amended Petition.<sup>1</sup> (Docket Entry No. 13).

As explained below, to continue in a habeas petition, a petitioner must exhaust all administrative remedies. As the Petitioner failed to do this, the Amended Petition should be dismissed

## **II. ARGUMENT**

A federal court may only entertain a habeas petition if the petitioner can demonstrate he properly exhausted all remedies by presenting “every claim in the federal petition to each level of the state courts, including the highest state court to which the petitioner is entitled to appeal.” *Rayner v. Mills*, 685 F.3d 631, 643 (6<sup>th</sup> Cir. 2012).

On December 15, 2020, the Petitioner filed a Motion to Review, Set Aside Order of Revocation and for Release to House Arrest with the Trial Court. (Docket Entry No. 1-7). The Motion was denied by the Trial Court and the Petitioner Appealed. On or about March 17, 2021, the Court of Criminal Appeals dismissed the appeal and expressly set forth the procedure for the Petitioner to obtain appellate review of his issues under Rule 8 of the Tennessee Rules of Appellate Procedure. *Id.* A public search of the Tennessee Appellate Court Clerk’s Office reveals no appeal was ever undertaken. Petitioner has also not pursued interlocutory review of any Trial Court order under Rules 9 and 10 of the Tennessee Rules of Appellate Procedure.

Federal law mandates a petitioner exhaust all remedies before filing a habeas petition. The Petitioner in the case at bar has not met this requirement and, at this point, it would be impossible for him to do so. Accordingly, his Amended Petition should be dismissed with prejudice.

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<sup>1</sup> On June 3, 2021, the Attorney General filed a Motion to Dismiss. (Docket Entry No. 20).

### III. CONCLUSION

For the aforementioned reasons, Respondent Weatherford respectfully requests this Honorable Court to dismiss the Amended Petition with prejudice.

Respectfully submitted:

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### **CERTIFICATE OF SERVICE**

I hereby certify that on the 9<sup>th</sup> day of June, 2021, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular mail. Parties may access this filing through the Court's electronic filing system.

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